

# House File 760 - Enrolled

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HOUSE FILE 760

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1 3 AN ACT  
1 4 RELATING TO DEPENDENT ADULTS AND THE PROVISION OF  
1 5 PROTECTIVE SERVICES.  
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1 7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
1 8  
1 9 Section 1. Section 235B.18, subsections 1 and 4, Code  
1 10 2005, are amended to read as follows:  
1 11 1. If the department reasonably determines that a  
1 12 dependent adult is a victim of dependent adult abuse and lacks  
1 13 capacity to consent to the receipt of protective services, the  
1 14 department may petition the district court in the county in  
1 15 which the dependent adult resides for an order authorizing the  
1 16 provision of protective services. The petition shall allege  
1 17 specific facts sufficient to demonstrate that the dependent  
1 18 adult is in need of protective services and lacks capacity to  
1 19 consent to the receipt of services.  
1 20 4. A determination by the court that a dependent adult  
1 21 lacks the capacity to consent to the receipt of protective  
1 22 services under this chapter shall not affect incompetency  
1 23 proceedings under sections 633.552 through 633.556 or any  
1 24 other proceedings, and incompetency proceedings under sections  
1 25 633.552 through 633.556 shall not have a conclusive effect on  
1 26 the question of capacity to consent to the receipt of  
1 27 protective services under this chapter. A person previously  
1 28 adjudicated as incompetent under the relevant provisions of  
1 29 chapter 633 is entitled to the care, protection, and services  
1 30 under this chapter.  
1 31 Sec. 2. Section 235B.19, subsection 1, Code 2005, is  
1 32 amended to read as follows:  
1 33 1. If the department determines that a dependent adult is  
1 34 suffering from dependent adult abuse which presents an  
1 35 immediate danger to the health or safety of the dependent  
2 1 adult, or which results in irreparable harm to the physical or  
2 2 financial resources or property of the dependent adult, and  
2 3 that the dependent adult lacks capacity to consent to receive  
2 4 protective services, and that no consent can be obtained, the  
2 5 department may petition the court with probate jurisdiction in  
2 6 the county in which the dependent adult resides for an  
2 7 emergency order authorizing protective services.  
2 8 Sec. 3. Section 235B.19, subsection 3, unnumbered  
2 9 paragraph 1, Code 2005, is amended to read as follows:  
2 10 Upon finding that there is probable cause to believe that  
2 11 the dependent adult abuse presents an immediate threat to the  
2 12 health or safety of the dependent adult or which results in  
2 13 irreparable harm to the physical or financial resources or  
2 14 property of the dependent adult, and that the dependent adult  
2 15 lacks capacity to consent to the receipt of services, the  
2 16 court may do any of the following:  
2 17 Sec. 4. Section 235B.19, subsection 5, Code 2005, is  
2 18 amended to read as follows:  
2 19 5. If the department cannot obtain an emergency order  
2 20 under this section due to inaccessibility of the court, the  
2 21 department may contact law enforcement to remove the dependent  
2 22 adult to safer surroundings, authorize the provision of  
2 23 medical treatment, and order the provision of or provide other  
2 24 available services necessary to remove conditions creating the  
2 25 immediate danger to the health or safety of the dependent  
2 26 adult or which are producing irreparable harm to the physical  
2 27 or financial resources or property of the dependent adult.  
2 28 The department shall obtain an emergency order under this  
2 29 section not later than four p.m. on the first succeeding  
2 30 business day after the date on which protective or other  
2 31 services are provided. If the department does not obtain an  
2 32 emergency order within the prescribed time period, the  
2 33 department shall cease providing protective services and, if  
2 34 necessary, make arrangements for the immediate return of the  
2 35 person to the place from which the person was removed, to the  
3 1 person's place of residence in the state, or to another  
3 2 suitable place. A person, agency, or institution acting in  
3 3 good faith in removing a dependent adult or in providing  
3 4 services under this subsection, and an employer of or person  
3 5 under the direction of such a person, agency, or institution,

3 6 shall have immunity from any liability, civil or criminal,  
3 7 that might otherwise be incurred or imposed as the result of  
3 8 the removal or provision of services.

3 9 Sec. 5. Section 235B.19, subsection 6, unnumbered  
3 10 paragraph 1, Code 2005, is amended to read as follows:

3 11 ~~The Upon a finding of probable cause to believe that~~  
3 12 ~~dependent adult abuse has occurred and is either ongoing or is~~  
3 13 ~~likely to reoccur, the~~ court may also enter orders as may be  
3 14 appropriate to third persons enjoining them from specific  
3 15 conduct. The orders may include temporary restraining orders  
3 16 which impose criminal sanctions if violated. The court may  
3 17 enjoin third persons from any of the following:

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3 21 \_\_\_\_\_  
3 22 CHRISTOPHER C. RANTS  
3 23 Speaker of the House

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3 25 \_\_\_\_\_  
3 26 JOHN P. KIBBIE  
3 27 President of the Senate  
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3 29 I hereby certify that this bill originated in the House and  
3 30 is known as House File 760, Eighty-first General Assembly.

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3 33 \_\_\_\_\_  
3 34 MARGARET THOMSON  
3 35 Chief Clerk of the House

4 1 Approved \_\_\_\_\_, 2005

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4 5 THOMAS J. VILSACK  
4 6 Governor